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7 Swyft

8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION

12 HUNGERSTATION, LLC

13 Plaintiff,

14 v.

15 FAST CHOICE LLC d/b/a PACE and
16 INSPIRING TRADING APPS LLC d/b/a
SWYFT,

17 Defendants.
18

Case No. 4:19-cv-5861-HSG

**ADMINISTRATIVE MOTION TO
EXTEND TIME FOR DEFENDANT
SWYFT TO RESPOND TO PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION**

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20 Pursuant to Local Rules 6-1(b), 6-3, and 7-11, Defendant Inspiring Trading Apps, LLC
21 d/b/a Swyft ("Swyft") respectfully requests that the Court modify the briefing schedule on
22 Plaintiff's Motion for Preliminary Injunction ("PI Motion") (Dkt. No. 23), so that Swyft's
23 response date is extended five days and Plaintiff's reply on the PI Motion is extended five days.
24 Swyft does not seek a continuance of the hearing date on the PI Motion. Specifically, Swyft's
25 response is currently due on November 15, 2019 and Plaintiff's reply is due on November 22,
26 2019. (*Id.*) Swyft requests only that the Court extend Swyft's deadline to respond to November
27 20, 2019, the same date as Swyft's response to the Complaint is due, and to extend the time for
28

1 Plaintiff's reply on the PI Motion to November 27, 2019. In support of its request, Defendant
2 Swyft avers:

3 1. Swyft's current deadline to answer or otherwise respond to the Complaint is
4 November 20, 2019, which date was set by stipulation between Plaintiff and Swyft. (Dkt. Nos. 14
5 & 16).

6 2. On November 1, 2019, after stipulating that Swyft had until November 20, 2019 to
7 respond to the complaint, Plaintiff filed its PI Motion, setting Swyft's response date of November
8 15, 2019 – i.e., five days before the time it stipulated Swyft could respond to the Complaint.
9 Plaintiff also set a reply date of November 22, 2019 and asked for a hearing date. (Dkt. No. 23).

10 3. On November 4, 2019, this Court set the hearing on the PI Motion for December
11 11, 2019. (Dkt. No. 25).

12 4. Swyft' counsel attempted to negotiate with Plaintiff's counsel and has requested a
13 stipulation for a brief, five-day extension to respond to the PI Motion, so that its response is due
14 on the same day as its response to the Complaint. Indeed, by seeking to extend its deadline to
15 respond to the PI Motion to the same date as its deadline to respond to the Complaint, Swyft was
16 merely trying to obtain a briefing schedule on the PI Motion that was consistent with the
17 extension that Plaintiff already granted it to respond to the Complaint; specifically, Swyft was
18 anticipating having until November 20, 2019 to evaluate Plaintiff's claims and form responsive
19 positions. By forcing a response to the PI Motion prior to the time afforded for a response to the
20 Complaint, however, Swyft's extension to respond to the Complaint and consider its defenses and
21 other positions has been diminished. A five-day extension of time to respond to the PI Motion
22 would restore to Swyft a reasonable opportunity to respond to Plaintiff's claims, including in the
23 PI Motion, while also enabling an expedient resolution to the PI Motion. Plaintiff has rejected
24 this proposal. Notably, Swyft has clarified its proposal would likewise allow Plaintiff to have a
25 five-day extension for its reply, but as of the date of this filing, Plaintiff has not agreed to such a
26 modification. *See* Declaration of Garrett S. Llewellyn ("Llewellyn Decl.") at ¶¶ 5-7, Exs. A & B.

27 5. As explained in the accompanying Declaration of Garrett Llewellyn, because of
28 the number and complexity of the issues to be briefed in this case, the time lag in communications

1 between Saudi Arabia-based Swyft and its U.S. counsel due to significant time zone differences,
 2 and Swyft's concurrent preparation of its response to the Complaint, Swyft needs additional time
 3 to prepare its response to the PI Motion. Indeed, the mere fifteen days Swyft has to respond to
 4 the PI Motion under the current schedule is insufficient to fully address the numerous issues
 5 raised in Plaintiff's dense, twenty-two-page motion, Plaintiff's forty-eight-paragraph declaration
 6 with various assertions, and nearly sixty pages of exhibits, including foreign-language material.
 7 Thus, Swyft will face substantial harm or prejudice if the Court does not grant the requested
 8 extension of time. *See* Llewellyn Decl. ¶ 8.

9 6. Moreover, the briefing schedule proposed by Swyft does not shorten the time
 10 Plaintiff has to reply, or seek to change the hearing date on the PI Motion. Therefore, it will still
 11 enable the Court to resolve the motion in a speedy, if not identical, ultimate time frame.

12 7. The parties have previously stipulated to an extension of time for Swyft to respond
 13 to the Complaint. (Dkt. Nos. 14 & 16); Llewellyn Decl. at ¶ 10.

14 8. For all of these reasons, Swyft respectfully requests that the Court modify the
 15 briefing schedule for the PI Motion such that Swyft has until November 20, 2019 to respond to
 16 Plaintiff's PI Motion and Plaintiff has until November 27, 2019 to reply on the PI Motion.

17 For the foregoing reasons, Defendant Swyft respectfully requests that the Court grant this
 18 administrative motion

19
 20
 21 Dated: November 12, 2019

BARNES & THORNBURG LLP

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 23 By: /s/ Garrett S. Llewellyn

24 Kevin D. Rising
 25 Garrett S. Llewellyn
 26 Attorneys for Defendant
 27 Inspiring Trading Apps, LLC d/b/a Swyft
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